

Statement of

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Alexandria, Virginia

before the

Committee on Veterans' Affairs
of the
United States House of Representatives

June 23, 2004

Not for Publication
Until Released by
The Committee

The National Military Family Association (NMFA) is the only national organization whose sole focus is the military family and whose goal is to influence the development and implementation of policies that will improve the lives of those family members. Our mission is to serve the families of the seven uniformed services through education, information, and advocacy.

Founded in 1969 as the Military Wives Association, NMFA is a non-profit 501(c)(3) primarily volunteer organization. NMFA today represents the interests of family members and the active duty, National Guard, Reserve, and retired personnel of the Army, Navy, Air Force, Marine Corps, Coast Guard, Public Health Service, and the National Oceanic and Atmospheric Administration.

NMFA volunteer Representatives in military communities worldwide provide a direct link between military families and NMFA's staff in the nation's capital. Representatives are the "eyes and ears" of NMFA, bringing shared local concerns to national attention.

NMFA receives no federal grants and has no federal contracts.

NMFA's web site is located at <http://www.nmfa.org>.

Kathleen B. Moakler, Deputy Director, Government Relations

Kathleen has been associated with the National Military Family Association since 1995 as a member of the headquarters staff. She has served as Legislative Administrative Assistant and Senior Issues Specialist in the Government Relations department, NMFA Office Manager, and since June 2003, as the Deputy Director, Government Relations. Her job requires a broad knowledge of the range of issues relevant to the quality of life of the families of the seven uniformed services. An Army spouse of over 28 years, Kathleen has a vast experience both volunteer and paid. She has served in varied leadership positions in civilian and military community organizations in that time.

Through the years Kathleen has worked with many military community programs including hospital consumer boards, commanders' boards, family readiness groups, church councils and the Army Family Action Plan at all levels. She believes that communication is paramount in the efficient delivery of services and the fostering of a rich community life for military families. She holds a Bachelor of Science degree in Business Administration from the State University of New York at Albany. Kathleen has been awarded the Army Commanders Award for Public Service.

In addition to her work at NMFA, Kathleen participates as a member of the Contemporary Choir at the Chapel at Ft. Belvoir VA and enjoys traveling to historic sites. She has a new role as a military mom. Her daughter is an Army nurse recently returned from a year in Iraq and her second son is an active-duty Army National Guard member involved in homeland defense in New York. Her oldest son is an aspiring actor in Hollywood, California. Kathleen and her husband Marty reside in Alexandria, Virginia.

Mr. Chairman and Distinguished Members of the Committee, the National Military Family Association (NMFA) appreciates your interest in the well-being of military families and thanks you for the opportunity to present testimony on the importance of ensuring that the legal and employment rights of servicemembers and their family are protected. We thank you for your concern for the continuity of health care for deployed reserve component families and the continuity of a supportive school environment for the children of families who find themselves with their single parent or both parents deployed. Your focus on military families at this critical time sends a message to those families that Congress is interested in how they are faring and wants to make sure that their lives are not disrupted any more than necessary.

NMFA thanks this Committee for the provisions that directly impacted military families with the passage of H.R. 100, Public Law 108-189, the "Servicemembers Civil Relief Act" (SCRA), in the last session. Updating the law to reflect the realities of military family life in the 21st century has made it easier for families to cope with the financial difficulties that many have to endure when the servicemember is deployed. The clarification that no interest above 6 percent can accrue for pre-activation credit obligations while on active duty and the permanent forgiveness of the amount above 6 percent will certainly aid activated Guard and Reserve members and their families. While the benefits to the reserve component are more obvious because of the transition from civilian to military pay, active duty families may also experience a reduction in pay when the spouse has to reduce hours or quit their job entirely to compensate for the loss of childcare. The opportunity to terminate a housing lease to move closer to family for support can be an important option for young families. The savings resulting from the ability to cancel an automobile lease for a vehicle not needed during deployment is a great help as well. These and the other provisions will prevent servicemembers and their families from experiencing a negative impact when the servicemember is activated or deployed.

NMFA is also grateful for the provisions in Public Law 108-183, the "Veterans Benefits Act of 2003," that increased benefits for the survivors of those who have already served and sacrificed for their country. The increase in monthly education benefits for surviving spouses and children will enhance their educational opportunities and better reflects the costs of education in today's dollars. The expansion of benefits to children with spina bifida will help those families cope with that condition. We are especially pleased with the restoration of Dependency and Indemnity Compensation (DIC) and accompanying benefits for surviving spouses who remarry after the age of 57. NMFA has joined with other organizations to make sure eligible widows are informed about the one year eligibility window to sign up to regain those DIC benefits. The servicemembers of today, deployed in support of Operation Enduring Freedom and Operation Iraqi Freedom, look to see that promises have been kept to those who have gone before them. The provisions included in the Veterans Benefits Act of 2003 tell them that they have been and will continue to be kept as promised.

This statement is concerned primarily with public sector compliance with the Uniformed Services Employment and Reemployment Rights Act (USERRA) and

improvements to the Servicemembers Civil Relief Act (SCRA). NMFA is specifically concerned with the impact of this legislation on military families. We will first discuss the SCRA and then move on to the provisions of USERRA.

Servicemembers Civil Relief Act

NMFA thanks the Committee for updating and clarifying certain provisions of the SCRA. In our statement we will focus on just three areas – the addition of H. R. 3779, Section 305 and Section 511(c).

Here is a hypothetical situation. Sergeant Jones, a member of the National Guard, receives notice of her activation and will be leaving shortly to be deployed in support of Operation Iraqi Freedom. As a single mom, in preparation she has crafted her required family care plan. Her son, Philip, will be staying with her mother and father, who live about 10 miles from where she lives now but in a different school district. Philip attends elementary school a short distance from his home and is a fourth grader with a teacher he likes and friends he has had since kindergarten. His grandparents will drive him back and forth to school each day. But when Sergeant Jones visits the school to inform the teacher, principal and counselor about her deployment, she is dismayed to learn that because Philip will be living outside the school district boundaries he will not be allowed to attend his current elementary school if he lives at his grandparents' home. Not only will he be deprived of his mother, but of a familiar support system, adding a new school to his list of transition issues. That's a lot to handle when you're just 10 years old.

This hypothetical situation is very real for many families around our nation today. NMFA applauded the introduction of H. R. 3779, the "Safeguarding Children of Deployed Soldiers Act of 2004" by Representative Louise Slaughter (D-NY, 28th) and Representative Ginny Brown-Waite (D-FL, 5th), that allows children to remain enrolled in their home district, even when forced to move to a neighboring district because of their parent's deployment. Military families, especially those of deployed servicemembers, are called upon to make unique sacrifices. Disruption of a child's education should not be one of them, if it can be helped. School can be the one constant in a time of change and anxiety. This bill is a common sense solution to the problem for these families. By allowing children to remain enrolled in their home district, even when forced to move to a neighboring district because of their parent's deployment, it relieves at least one worry that might serve as a distraction from duties for the deployed servicemember.

Many school districts suddenly find themselves with a substantial "military child" student population when local National Guard and Reserve Units are activated. We have received inquiries from these districts asking how they can help these children cope with deployment. This bill would enable these districts to show tangible support for these military children so they could do their "job" while mom or dad are off doing theirs.

NMFA supports the initiative to allow a school to treat military children as a residents of their original school district for the duration of the military service on which a child's change of residency is based. We understand that no transportation

would be provided. Minimizing the disruption in a child's life, when a parent is deployed, should be paramount for all parties concerned with the child's welfare.

The adage “no good deed goes unpunished” could easily apply to the actions of this Committee last year when it passed the “Servicemembers Civil Relief Act” (SCRA) to help ease the economic and legal burdens on military personnel called to active duty status and deployed in a contingency operation. Updating the law to reflect the realities of today's leases, both housing and automobile, certainly seemed that it would help military families cope with financial adjustments that might be necessary because of activation or deployment. It also rendered the “military clause” – the paragraph that stated that the lease could be broken if the servicemember received orders for a new duty station outside a designated mile radius (usually 50 to 100 miles) – supposedly obsolete. The ink was barely dry on the new legislation, however, before some landlords tried to shift the financial responsibility for leases from the servicemember to the spouse who had co-signed the lease. This happened whether the family was preparing to move to a new duty station or the spouse of a deployed servicemember was moving closer to family for support. One spouse, remarking on her landlord's interpretation of the new law said “our rental company told me that the new law only protects my husband, and he is the only one they will take off the lease.” For the most part, landlords backed down, thanks to the perseverance and tenacity of several installation legal assistance offices. The language in the “Servicemembers Legal Protection Act of 2004” should clarify that dependents as well as servicemembers are covered by SCRA's residential and motor vehicle lease termination provisions on joint leases. It also refines certain other definitions in the law to leave little room for individual interpretation. Relocation is stressful enough without adding the uncertainty of whether or not your family will be able to terminate a lease. Deployed servicemembers should not be distracted by this concern when they are overseas.

Moving from state to state, military families encounter many different tax laws and find that property is treated differently. Specifically, while the servicemember, if claiming another state as residence, is not required to pay property tax on an automobile or a boat, the family is liable for the payment of this tax if the title is in both spouses' names. Couples have joint savings accounts, they own their home jointly, it follows that they would have both their names on a car or boat title. Payment of this tax could become a financial hardship especially if the payment is unexpected, a large sum, and not included in the family budget. If families neglect the payment, there may be penalties associated with late payment. Often the families are not familiar with local tax laws or may think that they do not apply to them when they live on the installation. There is a great variance from state to state as to how tax liabilities are determined. The couple may not understand the protections of the SCRA and the benefits of having the property in the name of the servicemember. This can be such a burden to families that it surfaced as an issue in the Army Family Action Plan process, a mechanism that the Army uses to identify problems at the grassroots level and elevate them higher levels for solution. NMFA would like to ask the committee to consider extending relief from personal property tax for property owned jointly by the servicemember and spouse under section 511(c) of the SCRA.

NMFA appreciates the clarification to the SCRA provided by the “Servicemembers Legal Protection Act of 2004.” Reducing the scope of interpretation of the SCRA and closing loopholes, especially in sections related to leases, will aid servicemembers and their families in handling personal legal issues more effectively. Additionally, NMFA would ask that the committee consider extending relief from personal property tax for property owned jointly by a servicemember and spouse under section 511(c) of the SCRA.

Uniformed Services Employment and Reemployment Rights Act (USERRA)

The extension of deployments and the occurrence of repeated deployments in close succession for certain military specialties have caused hardship for many of our Guard and Reserve families. Those who have elected to continue with their employer sponsored health care during the deployment could face serious consequences. Increasing from 18 months to 24 months the maximum period of employer provided health plan coverage that an employee covered by the USERRA may elect to continue will give peace of mind to those families in a period already wrought with uncertainty.

NMFA commends the “USERRA Health Care Coverage Extension Act of 2004”. We are committed to ensuring continuity of care for the families of deployed reserve component servicemembers whether the healthcare is provided through TRICARE or the employer.

Education of employers about the rights of their employees who are members of the reserve component is a tremendous task. NMFA works closely with the Committee for Employer Support of the Guard and Reserve (ESGR) and applauds the work that they do. The “Patriotic Employer Act of 2004” would go a long way in educating employers about their responsibilities toward their reserve component employees. Requiring these employers to post the notice of the rights, benefits, and obligations of employees and employer would reduce confusion and unfamiliarity with the law. NMFA thanks Representative James P. McGovern (D-MA, 3rd), Representative Jeb Bradley (R-NH, 1st) and Representative Lane Evans (D-IL, 17th) for introducing this legislation.

NMFA would recommends that some USERRA provisions be extended to spouses and/or family members when they are called upon to perform extraordinary duties while a servicemember is deployed or in preparation for that deployment. NMFA has heard from many families about the difficulty of balancing family obligations with job requirements when a close family member is deployed. Suddenly, they are single parents or, in the case of grandparents, assuming the new responsibility of caring for grandchildren. The days leading up to a deployment can be filled with pre-deployment briefings and putting legal affairs in order. Families also need the opportunity to spend precious time together prior to a long separation. The need is no less when the servicemember returns. Reintegration and transition requires training not only for the servicemember but for the family as well in order to be most effective. NMFA has heard of a family where, before the deployment, the wife worked the night shift while her

husband stayed home with the children after working during the day. When he was called up, she tried to change her shift to accommodate her new responsibilities. Her employer's response: "You have two weeks to make other child care arrangements!" Protection for military spouses under USERRA might help families in their support of the military mission. This issue also surfaced in the 2004 Army Family Action Plan process as one of particular concern. Military families, especially those of deployed servicemembers, are called upon to make unique sacrifices. Help for the spouse in juggling career and family obligations would offer families some breathing room as they adjust to this time of separation.

NMFA endorses the 'Patriotic Employer Act of 2004' agreeing that education of employers is important for the success of USERRA. NMFA also suggests including family members under the USERRA umbrella to allow for job protection when the family member must perform extraordinary duties because of the servicemember's deployment.

Mr. Chairman, thank you for the allowing NMFA to present our views on these very important issues and again, thank you for your continued interest in and concern for our servicemembers, their families and their survivors.